

**STATEMENT OF THE
AMERICAN BUS ASSOCIATION**

**ON
S. 1501, THE MOTOR CARRIER SAFETY IMPROVEMENT ACT OF
1999**

**BEFORE THE
COMMERCE SUBCOMMITTEE ON SURFACE
TRANSPORTATION AND MERCHANT MARINE**

UNITED STATES SENATE

SEPTEMBER 29, 1999

ABA is the national trade association for the intercity bus industry. We have approximately 700 member companies that operate buses in intercity service. Some 100 of ABA's member companies provide regular route scheduled service, and nearly all of the operator members provide some sort of charter, tour or commuter service. Collectively, the membership of ABA offers:

- regular route intercity service between fixed points on set schedules;
- charter service, where a group of passengers (such as a church or organization) purchases all of the seats on a bus for exclusive use on a particular trip;
- tour service, for which seats are sold on an individual basis, and which usually includes stops for sightseeing and recreational purposes;
- commuter bus services, generally from the suburbs into urban areas; and
- special operations, which is scheduled service to enhance public transportation systems (such as bus service from a city to an airport), or may be connected with a special event, convention or attraction at the destination.

The remaining 2,300 of ABA's members include representatives of the travel and tourism industry, and the manufacturers and suppliers of products and services used by the bus industry.

ABA strongly supports S. 1501, the Motor Carrier Safety Improvement Act of 1999. It is a good bill that perceives the critical need to focus more effectively on safety issues in the industry by the establishment of a separate Motor Carrier Safety Administration within the Department of Transportation (DOT). We are also gratified that the legislation recognizes the clear distinction between truck

operations and passenger carrier operations. For too long the motorcoach industry has been regulated as if a bus were a truck. However, ABA prefers the language proposed in the House bill, H.R. 2679, which creates an "Office of Passenger Vehicle Safety." In our view, an Office, headed by a Senior Executive Service individual, and made up of several divisions would be better able to address the diverse nature of passenger safety in much more detail than a single division. We believe that passenger vehicle safety will be best served by the creation of an Office with sufficient staff resources to address the diverse nature of the passenger carrier industry rather than having all passenger vehicle safety issues housed in one small division within an office devoted only to trucking issues.

As we have told the Senate Commerce Committee before, safety has always been our industry's and ABA's number one priority and current statistics bear this out. Travel by motorcoach is by far the safest mode of transportation available to the public. The National Transportation Safety Board (NTSB) highlighted this fact at their board meeting last week. In addition, according to the National Safety Council, during the last decade for which statistics are available, 1987-1996, interstate motorcoach travel accounted for an average of 4.3 fatalities per year compared to an average of 44,000 persons per year killed in all highway fatalities during this period. ABA and its member companies believe that even one fatality is tragic and is too many. Further, our industry continually looks to improve its safety record.

At the same time, the record our industry achieved was accomplished by motorcoach operators and manufacturers through their own efforts to promote the highest standards of safe design and operation and through their compliance with stringent federal and state safety regulations. The very fact that ABA has a safety committee indicates just how important this issue is to our members. In addition,

ABA has recently hired a safety director dedicated to enhance our members' performance. ABA's safety committee serves as a resource for the entire motorcoach industry and is proactive in advancing new safety concepts to its members. It also provides important information on regulatory compliance to our members and to the industry. We hope that with the creation of this new administration, ABA can serve a similar function. We have always had a good working relationship with the Office of Motor Carriers and Highway Safety (OMCHS) and expect to have a similar role with the new Motor Carrier Safety Administration.

In addition to organizational issues, ABA also supports the legislation's proposed improvements to the Commercial Drivers License (CDL) program. It especially supports the initiation of a rulemaking action to provide for Federal medical qualification certificates to be made a part of commercial drivers' licenses by any state and a national registry of medical providers.

ABA also endorses the provision that would make significant improvements in the way motor carrier safety data is collected. However, in addition to the

data improvements proposed, we would like to see DOT develop definitions differentiating motorcoach, transit bus, and school bus operations as a way to improve the quality of the data collected. We would like to note that NTSB made a similar recommendation in the report that it issued last week.

With respect to other motor carrier safety initiatives, ABA supports the bill's establishment of departmental policy to ensure the protection of privacy for those using electronic recorders or other technology to monitor vehicle and operator performance and/or location. We continue to believe, however, that the use of technology should be voluntary, and that the privacy of those users should be protected.

With respect to the proposed Commercial Motor Vehicle Safety Advisory Committee, ABA fully supports the development of this group and would welcome the opportunity to participate.

ABA strongly supports section 6(g)(2) of S.1501 which mandates that the Federal Motor Carrier Safety Regulations (except Commercial Drivers Licenses and drug and alcohol testing) become applicable to commercial vans 60 days after the bill's enactment. This language is needed because DOT has simply not responded to prior congressional action intended to bring appropriate safety regulation to commercial vans.

TEA-21 mandated that one year after its effective date, the Federal Motor Carrier Safety Regulations (FMCSR), with few exceptions, would apply to commercial vans carrying more than 8 passengers.

Recent Federal Highway Administration (FHWA) rulemakings appear contrary to the TEA-21 mandate and the intent of Congress. For example, on August 16, 1999 it published a Notice of Proposed Rulemaking (NPRM) promulgating new safety fitness procedures for commercial motor vehicles. In doing so, it exempted commercial vans from those procedures even though they are part of the Federal Motor Carrier Safety Regulations (FMCSRs). ABA considers it a grave error to formalize a process that will not allow the FHWA to shut down interstate commercial van operators not matter how unsafe they prove to be.

Second, both the interim final rule and NPRM on the applicability of FMCSRs to interstate commercial passenger vans also appears contrary to congressional intent. The interim rule exempts commercial vans for a period of 6 months while the FHWA considers comments submitted in response to the NPRM. However, the NPRM, as written, only requires commercial passenger vans to file a Motor Carrier Identification Report, comply with vehicle marking provisions, and complete an accident register. This NPRM completely ignores driver qualifications, including medical requirements, hours-of-service provisions, and vehicle maintenance and inspection requirements. Research shows that more than 250 people annually are killed in commercial passenger van accidents, far exceeding motorcoach fatalities. ABA is confident that, in light of these statistics, that Congress never intended for the FHWA to exclude the bulk of the FMCSRs. Section 6(g)(2) of S.1501 would mandate the long overdue

application of a substantial portion of the FMCSRs to commercial vans, and we support it fully. However, in light of DOT's past inaction on this subject, it is also important to build into this provision language which ensures that DOT enforces these regulations.

There are several issues in which ABA would like to see the legislation address, which are not part of S. 1501.

One provision ABA would like to see included in the legislation is one involving alcohol and drug testing. We firmly believe that these alcohol and drug tests should be reported by the Medical Review Officer to a national database for use by carriers, with proper controls to ensure individual privacy.

With regard to medical qualifications for drivers, ABA believes that medical professionals who perform DOT physicals should be certified to ensure that they understand and follow the DOT medical guidelines. We understand that the Congress is working with DOT to establish such a process.

As you may know, ABA is a member of the Commercial Vehicle Safety Alliance's (CVSA) Passenger Carrier Committee. At a recent meeting of this Committee, it endorsed several concepts, some of which are incorporated into S.1501. The Passenger Carrier Committee voted to support the following: the creation of a Passenger Vehicle Safety Office within DOT; the establishment of minimum standards for driver and vehicle qualifications; the enhancement of data collection including driver accident histories, listing of violations, and a proper definition of a passenger vehicle; the prequalification of new carrier

entrants; and semi-annual inspections on commercial vehicles by the states. ABA urges the Committee to consider these recommendations when mark-up commences.

A final safety issue involves the certification of motor carrier safety specialists. ABA favors the establishment of a certification process for all those who perform safety reviews. Senator Breaux's bill, S.1524, would accomplish this and create a training and certification program for Motor Carrier Specialists at the federal, state, and local level as well as those non-governmental specialists (third parties) who perform safety reviews. Our view is that third parties will help alleviate the backlog of certain types of reviews, including those conducted on new companies and those initiated by company requests. ABA does not, however, support using third parties for normal compliance activities such as unscheduled compliance reviews and complaint investigations. We believe this certification proposal outlined in S.1524 will go a long way toward ensuring a more consistent, accurate, and uniform review process nationwide. We strongly believe that had this sort of program been in place already, accidents such as the tragic Mother's Day motorcoach crash in New Orleans might have been prevented. We hope that this legislation will somehow be incorporated into S. 1501 as the legislation advances to mark-up.

ABA is committed to safety and has been pro-active both on the regulatory and legislative fronts to advance those proposals that enhance the safety of the motorcoach industry. S. 1501 marks a milestone in the effort to achieve this

objective. The recognition that the operations of the motorcoach industry differ dramatically from the trucking industry is to be commended and the fact that a separate administration is being proposed that would be dedicated to motor passenger safety illustrates the commitment of Senator McCain to making safety a number one priority. ABA offers its resources and support as S.1501 advances in the legislative process and will dedicate itself to transforming the legislation into law.